

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE JUDICIARY
COMMITTEE

AMBER WITTER
LEGISLATIVE RESEARCH ANALYST
JUDICIARY COMMITTEE
Telephone: (602) 926 -3171

DATE: February 16, 2016

SUBJECT: Strike everything amendment to S.B. 1294, relating to scanning devices; trespass;
burglary

Purpose

Applies trespass and burglary offenses to devices that accept currency and are used to conduct commercial transactions. Increases the penalties for unlawful possession or use of a scanning device or reencoder.

Background

A person commits criminal trespass in the second degree, a class 2 misdemeanor, by knowingly entering or remaining unlawfully in or on any nonresidential structure (A.R.S. § 13-1503). Similarly, a person commits burglary in the third degree, a class 4 felony, by entering or remaining unlawfully in or on a nonresidential structure with the intent to commit any theft or felony therein (A.R.S. § 13-1506). A *structure* is any vending machine or any building, object, vehicle, railroad car or place with side and a floor that is separately securable from any other structure attached to it and that is used for lodging, business, transportation, recreation or storage. A *nonresidential structure* is any structure other than a residential structure, including a retail establishment (A.R.S. 13-1501).

Statute prohibits a person from using a scanning device or reencoder without the permission of the cardholder of the credit card with the intent to defraud the cardholder, the issuer or the merchant. Additionally, it is unlawful for a person to intentionally or knowingly make or possess with the intent to commit fraud any device or equipment specifically designed or adapted for use as a scanning device or reencoder. A violation is a class 6 felony (A.R.S. § 13-2110).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Adds to the definition of *structure* any device that accepts electronic or physical currency and that is used to conduct commercial transactions, which applies second degree criminal trespass and third degree burglary to these devices.
2. Increases the penalties related to unlawful possession or use of a scanning device or reencoder from a class 6 felony to:

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- a) a class 3 felony for unlawful use; and
 - b) a class 4 felony for unlawful possession.
- 3. Makes technical and conforming changes.
- 4. Becomes effective on the general effective date.

AW/rf